

THE HON'BLE SRI JUSTICE C.V. RAMULU

Saturday, 6th day of October, 2007

W.P.No.12597 of 1999

Between:-

M. Haribabu

... Petitioner

and

Southern Power Distribution
Company of A.P. Limited, rep. by its
Superintending Engineer, Operation
Circle, Ongole, Prakasam District
and others

... Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.12597 of 2007

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ORAL ORDER:
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This Writ Petition is filed seeking a Mandamus to declare the Memo No.SE/O/OGL/ADM/PO/JAO.II/U2/D.No.5324/07, dated 14-6-2007 issued by the 1st respondent only to accommodate the 3rd respondent as arbitrary and illegal.

It appears, petitioner as well as the 3rd respondent are working as Deputy Executive Engineers under the control of the 1st respondent-Superintending Engineer at Ongole. Petitioner was working at Vinukonda (Guntur Circle) and he was transferred to Ongole by Proceedings dated 18-5-2007 and was posted with effect from 25-5-2007 as Assistant Divisional Engineer, C.T.Meters, Ongole. On 13-6-2007 he was posted as Asst.Divisional Engineer, Rurals, Ongole and assumed charge on the same day, i.e. 13-6-2007. However, the said Order dated 13-6-2007 was cancelled on the next day, i.e. 14-6-2007. Aggrieved by the same, the present Writ Petition is filed.

According to the petitioner, the impugned Order is passed only to accommodate the 3rd respondent and, in fact, the Order dated 13-6-2007 was passed considering his health condition and since ADE, Rural has jurisdiction over two Mandals and is within 20 kilometres radius from Ongole town. Having considered his request and transferred him as ADE, Rurals on health grounds on 13-6-2007, passing of the impugned Order dated 14-6-2007 was unwarranted.

ADE, CT Metres is supposed to look after entire revenue District of Prakasam. Further, he met with an accident on 12-5-2006 and suffered multiple fractures and it may be difficult for him to undertake journey every day hundreds of miles and in fact, considering this condition, the Order dated 13-6-2007 was passed, and without there being any reasons furnished, Order dated 14-6-2007 was passed cancelling the Order dated 13-6-2007 and as such, the same is arbitrary and illegal and this transfer is not on administrative grounds, but was made to accommodate the 3rd respondent.

Respondent No.1 filed a detailed counter asserting that, taking the petitioner's health condition itself the Order dated 13-6-2007 was cancelled on 14-6-2007 and the duties to be attended to by the petitioner as ADE, CT Metres is lighter than the duties of ADE, Rural. ADE, Rural requires 24 hours attention. Therefore, the petitioner should not have any grievance of cancelling the Order dated 13-6-2007 on 14-6-2007. There is no *mala fide* in cancellation of the transfer Order dated 13-6-2007 nor it was done to favour the 3rd respondent. As such, the Writ Petition is devoid of merits and is liable to be dismissed.

Likewise, the 3rd respondent also filed a counter stating that the impugned Order was passed purely on administrative grounds and the transfer is only as to the nature of the job and not the place. Both the petitioner as well as the 3rd respondent have to operate from Ongole town and, therefore, there is no ground to interfere in a Writ Petition like this, which was passed against an Order cancelling the earlier transfer order. Further, petitioner has no right whatsoever to seek transfer against a particular post under the 1st respondent.

Heard the learned counsel for the parties at length and perused the entire material made available on record.

While admitting the Writ Petition on 18-6-2007, interim suspension as prayed for was granted by this Court and now it is stated that in view of the said interim order, petitioner is being continued as ADE, Rurals, Ongole. In view of this position and also in view of the fact that no reasons were furnished for cancelling the transfer order dated 13-6-2007 posting the petitioner as ADE, Rurals, Ongole on 14-6-2007, the impugned Order is liable to be set aside and is accordingly set aside. The 1st respondent is directed to reconsider the posting of the petitioner as well as the 3rd respondent, after hearing them, and pass appropriate orders, as per law, within a period of two weeks from the date of receipt of a copy of this Order. Till such time, status quo as on today shall be maintained.

With the above directions, the Writ Petition is disposed of. No order as to costs.

06-10-2007

Office to furnish
CC within 3 days.
(B.O.)

prk